



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 4, 1997

Mr. James D. Brush  
General Counsel  
Department of Licensing and Regulation  
920 Colorado  
Austin, Texas 78701

OR97-0474

Dear Mr. Castenada:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104276.

The Department of Licensing and Regulation (the "department") received a request for medical, insurance, and financial records involving a boxing match between Rey Hernandez and Mike Trejo. It is our understanding that you have already provided the requestor with some responsive documents. However, you contend that five responsive documents are medical reports excepted from disclosure pursuant to the Medical Practice Act (the "MPA"), article 4495b of Vernon's Texas Civil Statutes, in conjunction with section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from required public disclosure information considered to be confidential by law.

We have reviewed the reports at issue and agree that access to these records is governed by provisions of the MPA rather than chapter 552 of the Government Code. Open Records Decision No. 598 (1991). Section 5.08(b) and (c) of the MPA provide:


(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

(c) Any person who receives information from confidential communications or records as described in this section other than the persons listed in Subsection (h) of this section who are acting on the patient's behalf may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Section 5.08(j)(1) provides for release of medical records upon the written consent of a "personal representative" if a patient is deceased, when such written consent specifies (1) the information to be covered by the release, (2) reasons or purposes for the release, and (3) the person to whom the information is to be released. Also, section 5.08(j)(3) requires that any subsequent release of medical records be consistent with the purposes for which the department obtained the records. Open Records Decision No. 565 (1990) at 7. As the requestor has not complied with the access provisions of the MPA, the department must withhold these medical records from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 104276

Enclosures: Submitted documents

cc: Leigh Hopper  
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(w/o enclosures)